

EXHIBIT 606

deseretnews.com

Deseret Morning News, Saturday, December 06, 2003

Motion favors IBM in Unix dispute

By Brice Wallace

Deseret Morning News

Lindon-based SCO Group Inc. took a hit Friday in its federal lawsuit against International Business Machines Corp.

SCO and IBM are locked in suits and countersuits about whether IBM violated its license with SCO by placing parts of SCO's Unix computer operating system source code into Linux, a freely distributed operating system that is developed and enhanced by contributors worldwide.

U.S. Magistrate Brooke Wells on Friday ruled for IBM in its motion to force SCO to provide answers to IBM's questions. SCO will have 30 days, likely starting next week, "to identify with specificity the source code" it claims IBM put into Linux in violation of the license, Wells ruled.

Wells noted that the matter has followed a circular pattern. Each side has said it needs more information from the other party before it can provide the other party with information it wants.

IBM attorney David Marriott said SCO claims IBM took methods and trade secrets from Unix and put them into Linux "but won't tell us exactly where they are."

Both Unix and Linux contain millions of lines of code, but SCO has yet to show IBM a single line of violating code, he said. Instead, he said, SCO has provided many documents without specifics. "We've been given haystacks of information and been told, 'Figure it out for yourself,'" he said.

Marriott said SCO executives have talked a lot about their "great evidence" but haven't presented it to IBM. He added that SCO's allegations are meritless.

Meanwhile, SCO lawyer Kevin McBride tried unsuccessfully Friday to convince Wells that SCO needed more details from IBM before the matter could move forward. He said it is "clear" that IBM put parts of Unix into Linux, but "we just don't know what it is."

SCO wanted IBM to be forced to provide SCO with all versions of IBM's own Unix product, called AIX, so that SCO could determine where any license violations occurred. Then SCO could provide "more concrete answers" to IBM's questions, he said.

"We want to know what part is trade secrets, what part is contract, what part is copyright, until we've seen all of IBM's contributions," McBride said. "We can't point out what we don't know. . . . It's important we get a scalpel here and see exactly what we're looking at."

Marriott said that if SCO wants to know what IBM contributed to Linux, that information can be found on the Internet.

Friday's hearing also involved comparisons of data supplied by the parties. SCO says it has provided 100 more CDs of information than SCO has received from IBM. Marriott said IBM has provided the equivalent of 1 million pages of information to SCO and will provide more. But he said the company does not want to provide details about all versions of Dynix — developed by Sequent Computer Systems, now owned by IBM — and AIX because it is irrelevant to the case and totals more than 40 million pages.

"We want the 40 million pages," McBride shot back. "We'll digest it."

Wells scheduled a hearing Jan. 23 to consider SCO's motions. She postponed all other discovery activities in the meantime.

The SCO vs. IBM legal battle has been viewed by some observers as a tiny company taking on a corporate behemoth. McBride, brother of SCO chief Darl McBride, added to that perception during the Friday hearing, twice referring to SCO as "our little company."

E-mail: bwallace@desnews.com

© 2003 Deseret News Publishing Company